

1-1-1981

Washington report, vol. 10 no.22, July 27, 1981

American Institute of Certified Public Accountants.

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Recommended Citation

American Institute of Certified Public Accountants., "Washington report, vol. 10 no.22, July 27, 1981" (1981). *Newsletters*. 791.
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AICPA *Washington Report*

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AGRICULTURE, DEPARTMENT OF

Implementation of the audit requirements set forth in Attachment P of Circular A-102 applicable to all Federal assistance provided by USDA agencies to State and local governments and Indian Tribal governments was recently proposed by the Department (see the 7/20/81 Fed. Reg., pp. 37252-78). Attachment P requires that all Federal assistance recipients have an organization-wide financial and compliance audit every two years. The audits are to be performed by independent state and local government auditors or independent public accountants in accordance with standards published by the GAO, the OMB, the Comptroller General and the AICPA. This action is included in a general USDA proposal which would replace USDA's individual agency regulations on administration of grants and cooperative agreements with a Department-wide statement of policies and standards. Comments are requested by 9/3/81. For additional information contact Larry Wilson at 202/447-7161.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Federal financial participation in the cost of equipment under public assistance programs supported by the Department of Health and Human Services was the subject of proposed rulemaking recently issued by various HHS offices and the Health Care Financing Administration (see the 7/24/81 Fed. Reg., pp. 38280-82). The proposed rulemaking would revise and consolidate current HHS regulations, including those regulations dealing with management and disposition of equipment under supported programs. The proposal would also permit State public assistance agencies to expense most equipment at the time of purchase rather than depreciating it over its useful life as required under current regulations. This change would allow these agencies to claim Federal financial participation in the cost of equipment at an earlier date and would simplify the accounting requirements associated with the equipment. Because of the long-term nature of the programs involved, the total Federal reimbursement under either the proposed rule or current regulation would be approximately the same. The proposed capitalization threshold would be \$25,000 and is therefore intended to remove the vast majority of equipment purchases from the depreciation requirement. Comments are requested by 9/22/81. For additional information contact Edward Tracy at 202/755-7633.

OFFICE OF MANAGEMENT AND BUDGET

Public comment on a proposed Policy Letter which would set forth Government wide debarment and suspension procedures and provide for a consolidated listing of administrative debarments and suspensions was recently requested by the Office of Federal Procurement Policy (see the 7/22/81 Fed. Reg., pp. 37832-38). The Policy Letter would also provide for the listing of offerors, contractors, and subcontractors that have been debarred, suspended or declared ineligible pursuant to specific statutes and other regulatory authority. Comments are requested by 9/21/81. For additional information contact Patricia Szervo at 202/395-3501.

A segment of the draft Federal Acquisition Regulation (FAR) has been made available for public comment by the Office of Federal Procurement Policy (see the 7/13/81 Fed. Reg., pp. 35943-44). This component of FAR deals with cost principles and procedures for contracts with educational institutions and with contract administration generally. The FAR is being developed to replace the current system of procurement regulations. Comments are requested by 9/4/81. For additional information contact William Maraist at 202/395-3300.

PENSION BENEFIT GUARANTY CORPORATION

The contents of and procedures for filing a notice of termination for a terminated multiemployer plan under ERISA were the subjects of a final rule recently issued by the PBGC (see the 7/20/81 Fed. Reg., pp. 37244-46). The new rule adds section 2673 under chapter 29 of the CFR, providing detailed requirements for termination notices including who must file and how, when and where the notice must be filed. The notice is needed because when a multiemployer plan terminates either by mass withdrawal of employers or by plan amendment, the PBGC may have to act to protect the interests of the plan participants or beneficiaries. For additional information contact James Graham at 202/254-4862.

TREASURY, DEPARTMENT OF

The IRS, through a recent news release, announced that 163 tax shelter promoters and operators were under criminal investigation. The release indicated that indictments had been obtained against 39 others, 12 of which had been convicted of criminal charges as a result of the IRS' national tax shelter project. The investigations include tax shelters involving motion pictures, coal, oil, real estate, precious metals, patents and livestock. According to the IRS release, recent actions of grand juries, set up around the country to consider tax shelter related crimes include a 41 count indictment handed down in Boston involving a coal tax shelter scheme that resulted in \$150 million in fraudulent tax deductions being claimed. Criminal acts by promoters, such as back dating documents and reporting fraudulent information on partnership tax returns, have caused investors in the shelters to report false deductions on their returns. When investors are audited, they usually are assessed additional taxes, penalties and interest.

Amendments to the definition of a "private foundation" under IRC Sections 507 and 509 were the subjects of final regulations recently adopted by the IRS (see the 7/23/81 Fed. Reg., pp. 37888-90). The amendment to Section 509 (a) (2) (B) provides that income from an unrelated trade or business acquired by the organization after 6/30/75 (less any tax imposed by Section 511), is to be treated as gross investment income in determining whether an organization meets the "not more than one-third of income" test under Section 509(a) (2) (B). The regulations will affect certain tax-exempt organizations seeking to qualify as other than private foundations which acquire unrelated trades or businesses after 6/30/75. The amendments conform the tax regulations to changes in the tax law made by Public Law 94-81, enacted 8/9/75. The regulations are effective for taxable years ending after 6/30/75. For additional information contact Samuel Berger at 202/566-3544.

SPECIAL: JOINT SUBCOMMITTEES HOLD ADDITIONAL HEARINGS ON BILL TO AMEND FCPA

S. 708, a bill to amend the Foreign Corrupt Practices Act (FCPA) of 1977, was the subject of two-day hearings before joint sessions of the Senate Subcommittees on Securities and International Finance & Monetary Policy, 7/23-24/81. Witnesses included a representative of the National Governors Association, the Financial Executives Institute, and many former SEC staff members, including former Chairman Harold Williams. Williams was the only witness to appear before the joint session on 7/24/81 and stated that he could not support the present definition of "materiality" in S. 708 and "if enacted in this form, the accounting provisions of the Act, for all practical purposes, would be rendered a nullity." He acknowledged that legislation may well be necessary to clarify the present concerns with the Act and supported a number of the bill's provisions. Former

Chairman Williams also recommended that the concept of "reasonableness" remain intact under the accounting provisions and the "reason to know" standard be retained under the antibribery provisions of the FCPA, not as currently drafted in S. 708. He agreed to a request by Sen. John Chafee (R-RI), acting Chairman and author of S. 708, to submit suggestions for statutory language changes. Sen. Chafee stated that he "was prepared to make changes in S. 708 to arrive at the best Act possible." Mark-up of the bill, if it remains on schedule, will occur this week, on 7/28 or 7/29/81.

SPECIAL: SENATE CONTINUES ACTIVITY ON TAX MEASURE

The Senate, in continuing consideration of H.J. Res. 266, the Economic Recovery Tax Act of 1981, approved a measure that would allow tax deductions for charitable contributions by individuals not filing itemized tax returns. Under the Senate provision, taxpayers would be allowed to deduct 25% of their donations, up to \$100 in 1982, with 25% of any donations deductible in 1984. 50% of any donations will be deductible in 1985 and 100% of any donations will be deductible in 1986. The provision will expire at the end of 1986 unless it is renewed by the Congress. According to congressional estimates, the proposal will cost the Federal government \$38 million in F.Y. 1982 and rise to \$2.2 billion by F.Y. 1986. However, the Senate intending to offset part of the revenue loss passed an amendment offered by Sen. Robert Dole (R-KS) that would scale back depreciation write-offs for investments in real property. Sen. Dole's amendment would allow companies to write off 1-1/2 times the amount allowed if write-offs were evenly divided through the years of depreciation. Additionally, the Senate approved a provisions to eliminate the voting rights pass-through requirement for closely held corporations participating in employee stock ownership plans. Further action in the Senate chamber raised the amount of a self-employed person's income that may be applied to tax-deductible contributions to Keogh plans from \$100,000 to \$200,000. If income greater than \$100,000 is being applied for plan contribution, the rate of employer contributions for any plan participant cannot be less than 7.5% of income.

For additional information, please contact Jim Kovakas, Gina Rosasco, Nick Nichols or Kathee Baker at 202/872-8190.

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